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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/517,941	12/13/2004	Alexander Berthold Hendrik Bakker	2578-6723us	7383
24247	7590	10/03/2007		
TRASK BRITT P.O. BOX 2550 SALT LAKE CITY, UT 84110			EXAMINER STOICA, ELLY GERALD	
			ART UNIT	PAPER NUMBER
			1647	
			NOTIFICATION DATE	DELIVERY MODE
			10/03/2007	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

USPTOMail@traskbritt.com

Office Action Summary	Application No. 10/517,941	Applicant(s) BAKKER ET AL.	
	Examiner Elly-Gerald Stoica	Art Unit 1647	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 and 27-51 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☐ Claim(s) ____ is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☒ Claim(s) 1-18 and 27-51 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>06/29/2005</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Election/Restrictions

1. Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Group I, claims 1-6, 12, 15, 17-18, and 46, 48- 51, drawn to a binding molecule capable of binding to and stimulating the human OX40-receptor, and its method of making.

Group II, claims 7-11, 30, and 47, drawn to a method of making a binding molecule of OX40R.

Group III, claims 13 and 14, drawn to a method of identification of a specific binder to the human OX40-receptor by phage display library bio panning.

Group IV, claims 27-29, 31-34, 36-45 drawn to a method of modulating a T-cell response in a subject.

Group V, claims 16 and 35, drawn to a method of modulating a T cell response in a subject comprising gene therapy.

2. The inventions listed as Groups IV do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons: binding molecules to OX40-R were known in the art, as evidenced by Weinberg et al. (J Immunology, 164, 2160-2169, 2000) as cited by Applicant.

3. If the Applicant elects any of the Inventions I or IV, the application contains claims directed to more than one species of the generic invention. These species are deemed to lack unity of invention because they are not so linked as to form a single general inventive concept under PCT Rule 13.1.

The categories of species are as follows:

Category A: oligo peptides of 10 to 12 amino acids, wherein the oligo peptide sequence is Xaa1-Xaa2-R-Xaa3-Asp-Xaa4, wherein Xaa1 is selected from the group consisting of Ala, Tyr, and Asp, Xaa2 is selected from the group consisting of Asp, Arg and Met, R is selected from the group consisting of a pentapeptide or a heptapeptide, Xaa3 is Phe or Leu, and Xaa4 is Tyr or Ser, identified as single Seq. Id. Nos.

Category B: SEQ ID NO: 17, SEQ ID NO: 18, SEQ ID NO: 19, SEQ ID NO: 20, SEQ ID NO: 21, SEQ ID NO: 22, SEQ ID NO: 23 and SEQ ID NO: 24.

Category C: SEQ ID NO: 25, SEQ ID NO: 26, SEQ ID NO: 27 and SEQ ID NO: 28.

Category D: SEQ. ID. NO: 29-32.

Applicant is required, in reply to this action, to elect a **single species from each category A-D**, to which the claims shall be restricted if no generic claim is finally held to be allowable. For the election from category A, the Seq. Id. No: corresponding to a non-redundant amino acid sequence should be named. Applicant is advised to choose the species so they possess consistency so that a functional binding molecule should be eventually be described. The reply must also identify the claims readable on the elected species, including any claims subsequently added. An argument that a claim is

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allowable or that all claims are generic is considered non-responsive unless accompanied by an election.

If Applicants elects, Invention II Applicant is required, in reply to this action, to elect **a single species from each category B and C**, to which the claims shall be restricted if no generic claim is finally held to be allowable. Applicant is advised to choose the species so they possess consistency so that a functional binding molecule should be eventually be described. The reply must also identify the claims readable on the elected species, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered non-responsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

4. The claims are deemed to correspond to the species listed above in the following manner:

Category A: claims 31, 40, 46

Category B: claims 3, 5, 32, 41, 47.

Category C: claims 4, 5, 33, 41, 47,

Category D: claims 42-45, 48-51

The following claim(s) are generic: 31, 40, and 46.

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5. The species listed above do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, the species lack the same or corresponding special technical features for the following reasons: binding molecules to OX40-R were known in the art (*supra*), and the species have different structures and different properties.

Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the requirement be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention or species may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

Should applicant traverse on the ground that the inventions or species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions or species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C.103(a) of the other invention.

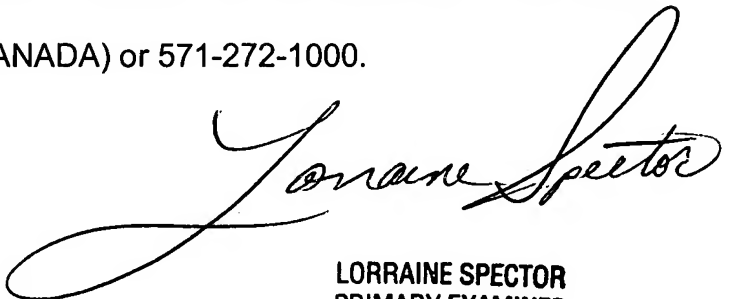
6. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one

or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elly-Gerald Stoica whose telephone number is (571) 272-9941. The examiner can normally be reached on 8:30-17:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Manjunath N. Rao can be reached on (571) 272-0939. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

A handwritten signature in black ink, reading "Lorraine Spector". The signature is fluid and cursive, with a large loop at the end of the last name.

LORRAINE SPECTOR
PRIMARY EXAMINER